



STATE OF TENNESSEE
DEPARTMENT OF REVENUE
ANDREW JACKSON STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37242

IMPORTANT NOTICE

TO: RETAILERS OF FOOD AND FOOD INGREDIENTS AND PREPARED FOOD
RE: SALES AND USE TAX ON PREPARED FOOD
DATE: JULY 10, 2002

Effective July 15, 2002, Chapter 856 of the Public Acts of 2002 raises the state sales and use tax rate from 6% to 7%. However, the law provides that "food and food ingredients" continue to be taxed at a state tax rate of 6% plus the applicable local tax rate. The law defines "food and food ingredients" as follows:

"food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

The reduced rate for "food and food ingredients" does not apply to prepared food. Prepared food will be taxed at the full state tax rate of 7% plus applicable local tax effective July 15, 2002. *Please see separate Important Notice regarding Food and Food Ingredients. "Prepared food" means:*

- food that is sold in a heated state or food that is heated by the seller;
- food where two or more food ingredients are mixed or combined by the seller for sale as a single item; or
- food sold with eating utensils provided by the seller such as plates, knives, forks, spoons, glasses, cups, napkins, or straws.

The preparation by the seller may occur where the food is sold or at another location.

Food that is only sliced, repackaged, or pasteurized by the seller is *not* considered to be prepared food. Serving size or quantity does not affect the taxability of a food item.

The Department considers the word "*Seller*" to mean the legal entity that sells the product at retail. This means that if the same legal entity prepares and sells the food item, the food is taxed at the full state tax rate of 7% plus applicable local rate regardless of where the food was prepared by the seller. If the seller contracts with another legal entity to prepare the food, the food is not prepared by the seller and is taxable at the reduced state tax rate of 6% plus applicable local rate, unless the legal entity preparing the food is an agent of the seller.

Heated and combined food: Food heated by the seller is taxable. This includes food that is sold in a heated condition, and food that was heated by the seller at any time before the sale even if it is not warm at the time of sale, that the customer would generally eat without reheating.

Food where two or more ingredients are combined by the seller: Food where two or more ingredients are combined by the seller is taxable at the 7% rate effective July 15, 2002. Heated food sold in combination with unheated food is taxable. For instance, if a customer buys a hot whole chicken with a pint of potato salad that was not prepared by the seller and the combination is sold for a single price, the sale is taxable at the 7% rate.

Examples of food taxable at the 7% state plus applicable local rate *if prepared by the seller:*

<ul style="list-style-type: none"> • any food items sold in a heated state • bakery goods made by the seller on location or at another location • brown and serve rolls • cheese if made by the seller • cold or frozen meals - ready to heat and eat • cold or frozen soups, casseroles, beans, potatoes, etc. • combined raw meats • cookie dough • drinks prepared by the seller (e.g., coffee or tea) • fruits cut and combined by the seller • ice cream novelties, cakes or pies • ice cream or ice milk dispensed as cones, sundaes, etc. • marinated raw meats 	<ul style="list-style-type: none"> • marinated raw seafood • meatloaf - uncooked • party trays • pizza half baked or uncooked • ready to eat meats, poultry, or fish (cooked, smoked or dried such as summer sausage, beef or venison sticks, and smoked fish) • rotisserie chicken • salad greens mixed by the seller • salads and other deli dishes • sandwiches • soups, casseroles or meals sold warm or ready to eat • warmed nuts
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Examples of foods taxable at 6% state rate plus applicable local rate:

<ul style="list-style-type: none"> • food that is only sliced, repackaged, or pasteurized by the seller such as meat from a deli counter, sliced and wrapped for a customer 	<ul style="list-style-type: none"> • pasteurized eggs • salads purchased for resale and repackaged in smaller containers by the seller
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Eating utensils: Food that is not otherwise prepared by the seller, but is sold with eating utensils provided by the seller, is prepared food and is taxable at the state rate of 7% plus applicable local rate. Eating utensils include but are not limited to plates, knives, forks, spoons, glasses, cups, napkins, or straws. Box lunches with napkins, straws, plastic forks or other utensils included are taxable at the state rate of 7% plus applicable local rate. If the manufacturer, rather than the seller, provides an eating utensil(s) with the food, such food is not considered to be provided with eating utensils. For example, a box of crackers and cheese that includes a spreader is subject to tax at 6% state tax rate plus applicable local rate because the spreader is not provided by the seller.

If you have any questions, you may call any of our HELP NUMBERS:

Chattanooga (423) 634-6266	Knoxville (865) 594-6100
Jackson (731) 423-5747	Memphis (901) 213-1400
Johnson City (423) 854-5321	Nashville (615) 253-0600

Tennessee residents can also call our statewide toll-free number at 1-800-342-1003. Out-of-state callers may dial (615) 253-0600. You may also visit our website at: **www.state.tn.us/revenue**.